

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JAMES BENSON,

Plaintiff(s),

v.

ROSETTA STONE, LTD.,

Defendant(s).

2:11-CV-1813 JCM (NJK)

**ORDER**

Presently before the court is the report and recommendation of Magistrate Judge Koppe. (Doc. # 17). No objections have been filed even though the deadline date for filing objections has passed.

After conducting a screening of plaintiff's in forma pauperis complaint, the magistrate judge found the complaint was not sufficient and ordered plaintiff to amend the complaint. (Doc. # 17). Plaintiff filed an amended complaint. (*See id.*). The magistrate judge found the amended complaint was also deficient and ordered the plaintiff to file another amended complaint. (*See id.*). Plaintiff never complied and the magistrate judge now recommends this action be dismissed without prejudice.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo

1 determination of those portions of the [report and recommendation] to which objection is made.”  
2 28 U.S.C. § 636(b)(1).

3       Where a party fails to object, however, the court is not required to conduct “any review at all  
4 . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).  
5 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate  
6 judge’s report and recommendation where no objections have been filed. *See United States v.*  
7 *Reyna–Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the  
8 district court when reviewing a report and recommendation to which no objections were made); *see*  
9 *also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s  
10 decision in *Reyna–Tapia* as adopting the view that district courts are not required to review “any  
11 issue that is not the subject of an objection.”). Thus, if there is no objection to a magistrate judge’s  
12 recommendation, then this court may accept the recommendation without review. *See, e.g.,*  
13 *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation  
14 to which no objection was filed).

15       Nevertheless, this court finds it appropriate to engage in a de novo review to determine  
16 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation  
17 and underlying briefs, this court finds good cause appears to adopt the magistrate’s findings in full.

18       Accordingly,

19       IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and  
20 recommendation of Magistrate Judge Koppe (doc. # 17) be, and the same hereby, is ADOPTED in  
21 its entirety.

22       IT IS FURTHER ORDERED that plaintiff’s motion/application for leave to proceed in forma  
23 pauperis (doc. # 1), be and the same hereby, is DENIED.

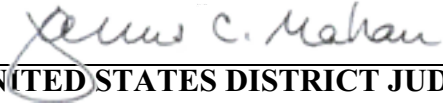
24       IT IS FURTHER ORDERED that plaintiff’s motion/application for leave to proceed in forma  
25 pauperis (doc. # 6), be and the same hereby, is DENIED.

26 . . .

27 . . .

1 IT IS FURTHER ORDERED that this action be dismissed without prejudice. The clerk of  
2 the court shall enter judgment and close the case.

3 DATED April 11, 2013.

4  
5   
6 UNITED STATES DISTRICT JUDGE